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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,358	02/12/2004	Steven Tischer	030514 (BLL-0143)	5081
36192	7590	04/27/2006	EXAMINER	
CANTOR COLBURN LLP - BELLSOUTH 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			ALLEN, WILLIAM J	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/777,358	Applicant(s) TISCHER, STEVEN	
	Examiner William J. Allen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 AND 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 AND 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Prosecution History Summary*

Claims 11-19 have been canceled as being drawn to a non-elected invention per applicant's remarks filed 2/16/2006.

Claim 10 has been canceled per applicant's remarks filed 2/16/2006.

Claims 21-22 have been added.

Claims 1-9 and 20-22 are pending.

### *Response to Arguments*

Applicant's arguments filed 2/16/06 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). On page 6 of Applicant's remarks, Applicant contests that, in reference to claims 1, 4, 8, and 20, it would **not** have been obvious to Combine Centner and Moskowitz as proposed. Furthermore, the Applicant contests that "Centner does not suggest using a wireless network to transmit RFQs". Center shows, in paragraph 0027 and Figure 1 that the system is capable of

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being used in a wireless environment with mobile devices (denoted as portable devices in Moskowitz). It is then evident that there is a clear suggestion for combining Centner with Moskowitz as both pertain to wireless transactions. The Examiner additionally notes that by periodically (i.e. *iteratively*) transmitting the signals in Moskowitz, the device automatically repeats the signal and better ensures that a transaction is completed. Both aspects of automation and increased reliability, which would be apparent to one of ordinary skill in the art, provide adequate motivation to combine Centner and Moskowitz.

Applicants arguments with respect to claims 2, 3, 5, 6, 7, and 9 depend on the arguments provided with respect to claims 1, 4, 8, and 20. These arguments have been fully considered but are not persuasive for the reasons listed above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**1. Claims 1, 4, 8, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centner et al. (US 2002/0007324 A1, herein referred to as Centner) in view of Moskowitz et al. (US 2004/0015403 A1, herein referred to as Moskowitz).**

**Pertaining to claim 1:**

- *Transmitting a first signal including a first data message using a mobile transceiver device, each first data messages having information relating to the desired product or service.* The system and method is capable of transmitting and receiving data over wired or wireless networks using telephone systems, wireless mobile device systems (i.e. mobile transceivers), etc. (see at least: [0027]). When a buyer wishes to purchase goods or services they are permitted to access a website and create an RFQ event for certain desired goods or services. Creating and sending the RFQ event (i.e. a first data message) contains details of the buyer's needs such as attributes, specifications, and any other information pertinent to the purchase of a desired product (see at least: [0035]). The buyer is capable of repeating the process by creating multiple RFQ events, thus, the signals can be iteratively sent by a buyer.
- *Receiving at least one of the first signals having first data message and determining whether a product or service provider has the desired product or services available for sale.* After the buyer submits the RFQ event (i.e. first signal having first data message), the RFQ is received and a web page is generated and downloaded to the buyer's device identifying all the suppliers that sell the requested items (see at least: [0036]). In displaying suppliers that sell the requested product, the system determines the availability of the desired product for sale.

- *Transmitting a second signal including a second message to the mobile transceiver device, the second data message containing an offer to sell the desired product or service.* After the buyer submits the RFQ event (i.e. first signal having first data message), the RFQ is received and a web page is generated and downloaded to the buyer's device identifying all the suppliers that sell the requested items (see at least: [0036]). The web page is downloaded (i.e. sent) to the buyer over the Internet and constitutes a second signal including second message data. The web site further contains information from bidding suppliers (i.e. suppliers offering to sell the desired product), which the buyer may select from to purchase the desired product (see at least: [039]). The buyer may also receive an email notification that includes all of the bids submitted by the suppliers (see at least: [043]).

The examiner notes that the recitation of a "second transceiver device". The specification defines the use of "mobile transceiver devices" and gives examples such as PDAs, cellular phones, etc. but fails to define a "transceiver device". For the purpose of examination, a transceiver device is any device, mobile or not mobile, capable of transmitting and receiving data as defined by Microsoft Press Computer Dictionary. Centner teaches all of the above and further teaches creating and transmitting the RFQ event (i.e. a first data message) containing details of the buyer's needs such as attributes, specifications, and any other information pertinent to the purchase of a desired product using a wireless device (see at least: [0027] and [0035]). Centner, however, does not explicitly teach the ability of the system to *iteratively* transmit first

data signals as recited in claims 1 and 20. Moskowitz discloses a system, method, and computer program for providing customers and merchants with a means for carrying out commercial transactions using portable wireless devices. More particularly, the portable device includes, but is not limited to, a Bluetooth-enabled portable wireless device having browser to exchange data with a merchant (see at least: Abstract; [0004]).

Bluetooth-enabled wireless devices have a short communicating range of less than one hundred meters. Both the customer's wireless device and the merchant's wireless device periodically, and thereby *iteratively*, transmits a short-range identity signal. When the merchant's fixed position wireless device detects the presence of the customer's nearby portable wireless device, the merchant's device sends the merchant's menu of goods and/or services to the customer's device (see at least: [0004]). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Centner to include *iteratively* transmitting a first signal as taught by Moskowitz in order to ensure a transmission is completed. By periodically, and therefore iteratively, transmitting the signal, the device itself automatically repeats the signal to ensure the receiver receives the data message and the transaction is completed.

**Regarding claim 4,** Centner further discloses the offer to sell the product or service in the second data message includes a product or service identifier and a price of the desired product or service. After the buyer submits the RFQ event (i.e. first signal having first data message), the RFQ is received and a web page is generated and downloaded to the buyer's device identifying all the suppliers that sell the

requested items and thereby identifying the product (see at least: [0036]). The web page is downloaded (i.e. sent) to the buyer over the Internet and constitutes a second signal including second message data. The web site further contains bids (i.e. offers to sell the product or service at a specific price) (see at least: [00140]-[016]; [0039]).

**Regarding claim 8,** Centner teaches all of the above and further teaches creating and transmitting the RFQ event (i.e. a first data message) containing details of the buyer's needs such as attributes, specifications, and any other information pertinent to the purchase of a desired product using a wireless device (see at least: [0027] and [0035]). Centner, however, does not explicitly teach the ability of the system to iteratively transmit first data signals as recited in claims 1 and 20 according to *predetermined time intervals*. Moskowitz discloses a system, method, and computer program for providing customers and merchants with a means for carrying out commercial transactions using portable wireless devices. More particularly, the system uses a Bluetooth-enabled portable wireless device having browser to exchange data with a merchant (see at least: Abstract; [0004]). Bluetooth-enabled wireless devices have a short communicating range of less than one hundred meters. Both the customer's wireless device and the merchant's wireless device periodically transmit a short-range identity signal. When the merchant's fixed position wireless device detects the presence of the customer's nearby portable wireless device, the merchant's device sends the merchant's menu of goods and/or services to the customer's device (see at least: [0004]). Webster's Dictionary defines the term periodic as repeated cycles



occurring at regular intervals; thereby encompassing the term *predetermined time intervals*. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Centner to include iteratively transmitting a first signal as taught by Moskowitz in order to ensure a transmission is completed. By periodically, and therefore iteratively, transmitting the signal, the device itself automatically repeats the signal to ensure the receiver receives the data message and the transaction is completed.

**Regarding claim 20**, the claim language of claims 1 closely parallels that of claim 20. Furthermore, Centner claims use of a program storage device readable by a computer for use with the disclosed system and method (see at least: claim 19). Claim 20 is therefor analyzed and rejected on the same merits.

**Regarding claim 21**, Centner in view of Moskowitz teaches all of the above and further teaches uses mobile devices in a wireless network to complete transactions (see at least: Centner, Fig. 1). Centner, however, does not teach *wherein iteratively transmitting the first signal includes iteratively transmitting the first signal through multiple communication protocol to transmit the first signal in each protocol*. Moskowitz teaches *wherein iteratively transmitting the first signal includes iteratively transmitting the first signal through multiple communication protocol to transmit the first signal in each protocol* (see at least: 0003, 0017, 0018, 0023, 0024). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of

Centner to include *iteratively* transmitting a first signal as taught by Moskowitz in order to ensure a transmission is completed. By periodically, and therefore iteratively, transmitting the signal, the device itself automatically repeats the signal to ensure the receiver receives the data message and the transaction is completed.

**Regarding claim 22**, Centner further teaches *wherein the second message containing the offer to sell the desired product or service includes a predetermined number of data messages having offers for sale with the lowest price* (see at least: 0039). The Examiner notes that multiple suppliers submit a “second message” with each second message having a predetermined number of data messages (i.e. one competitive bid in the single-quote sealed bid event).

**2. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centner et al. (US 2002/0007324 A1) in view of Moskowitz et al. (US 2004/0015403 A1) as applied to claims 1, 4, 8, and 20, and in further view of “Tom D’Angelo priceline.com’s Mr. Inside” (extracted from Proquest on September 21, 2005, herein referred to as Priceline).**

**Regarding claims 2 and 3**, Centner teaches all of the above as noted in the 103(a) rejection and teaches a *first data message includes a product or service identifier* (as recited in claim 2) The buyer can create and send the RFQ event (i.e. a first data message) containing details of the buyer's needs such as attributes, specifications, and any other information identifying a desired product (see at least: [0035]). Additionally, Centner teaches a *request expiration date wherein an offer to sell the desired product or service is not desired after the request expiration date* (as recited in claims 3). The buyer specifies an "auction deadline" (i.e. *request expiration date*) wherein when at the auction deadline, the buyer visits the subject web site and selects a supplier from the list of competitive bids (i.e. *offers to sell desired products*), rendering any bid past the deadline undesirable (see at least: [0039]). Additionally, Centner teaches a system where a buyer can specify the selection of a winning supplier based on a set price (see at least: [0039]), however, Centner does not explicitly state sending *desired price for the desired product or service*. Priceline discloses the ability of a buyer to send a desired price using a "Name Your Own Price" model for airline tickets, hotels, and other associated services. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Centner to include sending a desired price for a desired product in order to allow users of a system to more conveniently shop within a desired price range, eliminating suppliers unable to meet the user specified criteria from a potential supplier list and thereby eliminating irrelevant results.

**3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Centner et al. (US 2002/0007324 A1) in view of Moskowitz et al. (US 2004/0015403 A1) as applied to claims 1, 4, 8, and 20, and in further view of Day et al. (US 2001/0013011 A1, herein referred to as Day).**

**Regarding claim 5,** Centner teaches all of the above as noted by the 103(a) rejection and further teaches suppliers providing bids (i.e. *offers to sell desired products*) identifying products or services available for sale. Centner, however, fails to teach *a second data message further including an offer expiration date wherein the offer to sell expires after the offer expiration date*. Day discloses a system and method for presenting customized special offers to customers interested in various products. Day further discloses that once a customer is presented with a special offer, they have a limited amount of time to take advantage of the offer before the offer expires (see at least: [0043]). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Centner to include a second data message further including an offer expiration date in order to encourage customers to take advantage of the offer and purchase a desired product at a lower price. It is common in the art for suppliers of products and services to offer special prices having an expiration date in the near future. By offering the product at a discount price for a limited period of time, the incentive for potential buyers to purchase items sooner rather than later increases. The increase in incentive leads to more purchase activity for a supplier, thereby

increasing profits/revenue through increasing sales of particular items by providing incentive or buyers to purchase desired products.

**4. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Centner et al. (US 2002/0007324 A1) in view of Moskowitz et al. (US 2004/0015403 A1) as applied to claims 1, 4, 8, and 20, and in further view of Joao (US 2002/0133424 A1).**

**Regarding claims 6 and 9**, Centner teaches all of the above as noted under the 103(a) rejection and further teaches sending of a first data message and receiving a second data message by a mobile wireless device, the second message containing product identifier information and offers to sell the desired product. Centner however, does not explicitly teach the *mobile transceiver device comprising a cellular telephone* (as recited in claim 6) and *displaying the second data message from the second signal on the display screen*. Joao discloses a system and method for facilitating commercial transactions using multiple user devices. The user devices are equipped with a display screen for displaying information pertinent to the transaction (see at least: [0181]). Additionally, Joao discloses that a user device may consist of a number of devices, including, but not limited to cellular phones to allow users to conveniently receive and review messages pertaining to their particular transaction (see at least: [0287] and [0321]- [0322]). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Centner to include mobile transceivers comprising

cellular telephones with displays for displaying a second data message as taught by Joao in order to provide a means for a user to conveniently receive and review messages pertaining to their particular transaction thereby creating a more user friendly system.

**5. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Centner (US 2002/0007324 A1) in view of Moskowitz et al. (US 2004/0015403 A1) as applied to claims 1, 4, 8, and 20, and in further view of Covington et al. (US 2003/0154135 A1, herein referred to as Covington).**

**Regarding claim 7,** Centner teaches all of the above as noted in the 103(a) rejection and further teaches notifying suppliers via email, fax, or other conventional means inviting them to participate in bidding for goods and services a buyer desires. Centner, however, does not explicitly teach a supplier *directly receiving the first data message at a store location or at a mobile location*. Covington discloses an interactive system and method for facilitating shopping online. Furthermore, Covington teaches the buyer selecting a store location for purchase pick-up, wherein the purchase order is forwarded to the selected store location (see at least: [0202]). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Centner to include directly receiving the first data message at a store location or a mobile location as taught by Covington to allow suppliers of a desired product to expeditiously check inventory for availability in order to provide quick and

accurate feedback to a buyer of a desired product. Furthermore, in the event that a purchase is to be picked up, transmitting a purchase order directly to a selected store location allows a buyer of a desired product to choose the most convenient location to retrieve the purchase.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogesh Garg can be reached on (571) 272-6756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William J. Allen  
Patent Examiner  
April 17, 2006

*Y. C. Garg*  
Y. C. Garg  
Primary Ex.